

[*Oglesbee v. Westinghouse Hanford Co.*](#), 96-ERA-28 (ALJ Aug. 30, 1996)

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DATE: AUGUST 30, 1996

CASE NO: 96-ERA-28

IN THE MATTER OF

HELEN GAIDINE OGLESBEE,
Complainant,

v.

WESTINGHOUSE HANFORD COMPANY,
Respondent.

**RECOMMENDED DECISION AND ORDER APPROVING
AGREED SETTLEMENT AND MOTION TO DISMISS**

This matter arises under the Energy Reorganization Act of 1974, 42 U.S.C. § 5851, and the procedural regulations for the handling of discrimination complaints found at 29 C.F.R. Part 24.

Pursuant to a Notice of Hearing and Pre-Hearing Order dated June 21, 1996, this matter was set for hearing on Monday, August 19, 1996, in Richland, Washington. On July 8, 1996, this office received, via facsimile, a request for a "deferred hearing date other than August 19, 1996", from Complainant. As reasons for such request, Complainant advised this office that ongoing resolution mediation was in progress with the U.S.

Department of Energy delegates. Counsel for the Respondents responded to the Complainant's request; and had no objection to a postponement of the August 19, 1996, hearing date. On July 9, 1996, the undersigned entered an Order Granting Continuance in this matter, cancelling the hearing and retaining the case file in this office pending settlement.

On August 30, 1996, I received a fully executed "Joint Request for Approval of Settlement Agreement and Motion to Dismiss", which bears the signatures of counsel for the Respondent and the Complainant. The parties enter into this settlement agreement in order to settle fully all claims by the Complainant against Westinghouse upon the terms and conditions as set forth below:

1. Westinghouse shall place the Complainant, Helen Oglesbee, on short-term disability on the basis of a non-occupational, temporary disability beginning April 12, 1996, and ending on August 6, 1996; for the purpose of permitting the Complainant to participate in the Special Voluntary Retirement Program - 1996. The Complainant shall not be eligible for reemployment by Westinghouse at any time as a result of this action and in the event the Complainant fails to select the Special Voluntary Retirement Program, she shall remain as a terminated employee.

2. The Complainant shall be entitled to all of the benefits provided under the Special Voluntary Retirement Program, including the enhance retirement benefits of Four Hundred Eighty Five Dollars and Six Cents (\$485.06) per month for life and One Hundred Twenty Five Dollars (\$125.00) per month until she reaches the age of 62; retiree medical coverage as is provided in the applicable plan for which the Complainant shall pay the current premium of Twenty Dollars and Three Cents (\$20.03) per month and retiree life insurance coverage in the amount of Sixty Thousand Four Hundred Seventy Eight Dollars (\$60,478.00) reduced to the sum of Thirty Five Thousand Two Hundred Thirty Nine Dollars (\$35,239.00) for which the Complainant shall pay the current premium of Five Dollars Four Cents (\$5.04) per month.

3. Westinghouse shall pay to the Complainant, Helen Oglesbee, for salary and benefits for the short-term disability period beginning on April 12, 1996, and ending on August 6, 1996. Complainant understands and agrees that Westinghouse will make all appropriate payroll and benefits deductions from the

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amount set forth in this paragraph including a set off in the amount of Three Thousand Six Hundred Thirteen Dollars and Fifty Cents (\$3,513.50) paid to the Complainant by the U.S. Department of Energy prior to making final payment to the Complainant. The net amount payable to the Complainant under this paragraph is the sum of Four Thousand Eight Hundred Fifty Five Dollars and Seven Cents (\$4,855.07).

4. Westinghouse shall also pay to the Complainant the additional sum of Thirty Eight Thousand Six Hundred Thirteen Dollars (\$38,613.00). This one time payment is not back pay or wages. The parties acknowledge that the Complainant is settling this dispute with Westinghouse and in doing so, giving up the right to pursue certain claims which may include claims related to personal injuries, to which the Complainant believes she is entitled and for which Westinghouse denies liability. If ultimately determined by the Internal Revenue Service that the one time payment is taxable, the Complainant is wholly responsible for the payment of any taxes, penalties or interest.

Accordingly, the undersigned, finding the terms of the settlement to be fair, adequate and reasonable, recommends approval of the settlement agreement and dismissal of the complaint with prejudice. The settlement agreement of the parties attached hereto and incorporated herein by reference for all purposes is hereby adopted as the final disposition of this matter.

Entered on this 30th day of August, 1996, at Long Beach, California.

DANIEL L. STEWART
Administrative Law Judge

DLS:lmh

NOTICE: This Recommended Decision and Order and the administrative file in this matter will be forwarded for final decision to the Administrative Review Board, U.S. Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Ave., N.W., Washington, D.C. 20210. *See* 61 Fed. Reg. 19978 & 19982 (1996)